

Senate Bill No. 1022

CHAPTER 309

An act to amend Sections 661 and 1861.16 of the Insurance Code, relating to insurance.

[Approved by Governor September 1, 1999. Filed
with Secretary of State September 2, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1022, Johnston. Automobile insurance: good driver discount: representative of insurer.

(1) Existing law requires agents or representatives representing insurers under common ownership, management, or control to provide good driver coverage, which is required to be sold to eligible persons pursuant to certain provisions enacted by Proposition 103, at the lowest rates applicable within the common ownership, management, or control group.

This bill would define the term "representative" for purposes of this provision of law. Because this bill would clarify the persons required to provide good driver coverage required under Proposition 103, it would amend Proposition 103, and thus, would require a $\frac{2}{3}$ vote for enactment.

(2) Existing law, Proposition 103, specifies that a notice of cancellation of a policy of automobile insurance may be based, among other reasons, on a substantial increase in the hazard insured against. Existing provisions of law relative to automobile insurance that are separate from, and not enacted in furtherance of, Proposition 103, specify that a notice of cancellation of a policy of automobile insurance is effective only if it is based on one or more specified reasons, but do not specify as a reason a substantial increase in the hazard insured against.

This bill would add to these separate provisions of law that a substantial increase in the hazard insured against is a reason for a notice of cancellation.

The people of the State of California do enact as follows:

SECTION 1. Section 661 of the Insurance Code is amended to read:

661. (a) A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons:

(1) Nonpayment of premium.

(2) The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same

household or customarily operates an automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the 180 days immediately preceding its effective date.

(3) Discovery of fraud by the named insured in pursuing a claim under the policy provided the insurer does not rescind the policy.

(4) Discovery of material misrepresentation of any of the following information concerning the named insured or any resident of the same household who customarily operates an automobile insured under the policy:

(A) Safety record.

(B) Annual miles driven in prior years.

(C) Number of years of driving experience.

(D) Record of prior automobile insurance claims, if any.

(E) Any other factor found by the commissioner to have a substantial relationship to the risk of loss.

Any insured who negligently misrepresents information described in this paragraph may avoid cancellation by furnishing corrected information to the insurer within 20 days after receiving notice of cancellation and agreeing to pay any difference in premium for the policy period in which the information remained undisclosed.

(5) A substantial increase in the hazard insured against.

(b) This section shall not apply to any policy or coverage that has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

(c) Modification of automobile physical damage coverage by the inclusion of a deductible not exceeding one hundred dollars (\$100) shall not be deemed a cancellation of the coverage or of the policy.

(d) This section shall not apply to nonrenewal.

SEC. 2. Section 1861.16 of the Insurance Code is amended to read:

1861.16. (a) An insurer issuing a policy described in subdivision (a) of Section 660 by or through an insurance agent where a commission is paid, directly or indirectly, to that agent shall, when issuing a policy in the minimum financial responsibility coverage amount as required by Section 1861.15, pay a commission on the same terms and on the same percentage basis to that agent as for any higher amount of policy coverage sold by that agent. In no case shall the percentage amount of commission paid to that agent for a policy of minimum financial responsibility coverage be less than the percentage commission paid to that agent on any higher level of policy coverage issued by that insurer.

(b) An agent or representative representing one or more insurers having common ownership or operating in California under common management or control shall offer, and the insurer shall sell, a good driver discount policy to a good driver from an insurer within that common ownership, management, or control group, which offers the lowest rates for that coverage. This requirement applies



notwithstanding the underwriting guidelines of any of those insurers or the underwriting guidelines of the common ownership, management, or control group. Nothing in this subdivision shall require an insurer to offer and sell a good driver discount policy that the insurer would otherwise not be required to offer and sell in accordance with paragraph (3) of subdivision (b) of Section 1861.02. As used in this subdivision, “representative” means any person who offers or prepares premium quotations on behalf of either an insurer or any entity acting directly or indirectly on behalf of an insurer. This subdivision shall not be construed to either permit a representative to transact insurance, or to exempt a representative who does transact insurance from the licensing provisions of this code.

This subdivision shall become operative on January 1, 1991.

(c) An insurer that is required by this section or Section 1861.02 to offer and sell good driver discount policies to good drivers to whom it did not sell those policies prior to November 8, 1988, due to driving safety record or vehicle type may file and, upon the approval of the commissioner, implement an interim rating plan for those applicants until the rating plan required by subdivision (a) of Section 1861.02 is adopted, provided that the insurer has timely filed an automobile insurance rating plan in compliance with subdivision (a) of Section 1861.02, and that plan has not been approved. An insurer may file an interim plan prior to the operative date of subdivision (b).

The commissioner shall notify the public of any application by an insurer for an interim rating plan. The public notice shall meet the requirements of Section 1861.06. The application shall be deemed approved 60 days after public notice unless (1) a consumer or his or her representative requests a hearing within 45 days of public notice and the commissioner grants the hearing, or determines not to grant the hearing and issues written findings in support of that decision, or (2) the commissioner on his or her own motion determines to hold a hearing. If the commissioner grants a request for a hearing or determines on his or her own motion to hold a hearing on the application for an interim rating plan, but does not approve or disapprove the proposed interim rating plan within the later of 30 days from the date the commissioner grants a request or determines to hold the hearing or January 1, 1991, the interim rating plan may be used until the time that the commissioner issues a decision.

If an interim rate or proposed interim rate is greater than the rate ultimately approved, the insurer shall refund to its applicable policyholders, in proportion to the amount of premium paid by each, the difference between the total amount earned and the amount to which the insurer is entitled under the rate ultimately approved, together with interest at the rate of 10 percent per year. In lieu of a refund, the insurer may provide a credit to the policyholder if the amount due is less than three dollars (\$3).



(d) Nothing contained in subdivision (b) or (c) shall be construed to expand, limit, or modify the requirements of subdivision (b) of Section 1861.02.

(e) A violation of this section by any insurer shall subject it to the penalties provided by Section 1861.14.

SEC. 3. The Legislature finds and declares that Section 2 of this act furthers the purpose of Proposition 103 by clarifying the persons required to provide good driver coverage required under Proposition 103.

